

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 701 of 2009

[Against the Judgment of conviction dated 02.07.2009 and Order of sentence dated 06.07.2009, passed by learned 2nd Additional Sessions Judge, Hazaribag in Sessions Trial No. 277 of 2005]

Ram Dayal Munda, S/o Shri Jagdish Munda, resident of Village – Kadru, P.S.- Patratu, District – Ramgarh (Jharkhand).

... .. **Appellant**
Versus
The State of Jharkhand **Respondent**

.....
For the Appellant : Mr. Mayank Mridul, Advocate.
For the Respondent : Mr. Fahad Allam, A.P.P.

.....
P R E S E N T
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

Dated: 6th May, 2026

By Court:- Heard Mr. Mayank Mridul, learned counsel for the appellant and Mr. Fahad Allam, learned A.P.P. for the State.

2. The present Criminal Appeal is directed against the judgment of conviction dated 02.07.2009 and order of sentence dated 06.07.2009 passed by learned 2nd Additional Sessions Judge, Hazaribag in Sessions Trial No. 277 of 2005, whereby and whereunder, the appellant has been held guilty for the offence under Section 307 of the I.P.C. and has been sentenced to undergo R.I. of five years.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 06.01.1996 in the night, the informant along with one

Sakaldeo Bedia was working in his Khalihan and at about 9:30 P.M., his father Dasai Karmali (P.W.-1) came there and asked him to go to the house. Then the informant told his father to go ahead and he was coming later on. His father proceeded and soon thereafter, informant and Sakaldeo Bedia also proceeded. It has further been alleged that when his father reached near the house of Jagdish Munda, accused Jagdish Munda, his son Ram Dayal Munda, Lunda Munda, his both wives and his daughter Munia Kumari surrounded Dasai Karmali and started assaulting him. Accused Jagdish Munda assaulted his father with lathi and his father fell down. Thereafter, accused Ram Dayal Munda inflicted farsa blow on the head of Dasai Karmali. Other accused persons also assaulted him with lathi. The informant and Sakaldeo Bedia ran to rescue Dasai Karmali, in the meantime, nearby people also assembled there and accused persons fled away from there. Thereafter, injured was brought to Central Workshop Hospital, Patratu for treatment. The reason behind the occurrence is old land dispute.

4. On the basis of above fardbeyan, FIR being Patratu P.S. Case No. 7 of 1996 was registered against the accused persons for the offence under Sections 147,

148, 149, 323, 324, 342, 326 and 307 of the I.P.C. and after investigation, charge sheet was submitted under the aforesaid Sections against the six accused persons, out of whom one Somari Devi died, as such, her name was deleted. After taking cognizance of the offence, the learned Magistrate committed the case to the Court of Sessions; where S.T. No. 277 of 2005 was registered. The charge for the offence under Sections 147, 148, 149, 323, 324, 342, 326 and 307 of the I.P.C. were framed against the appellant and others and read over and explained to them, to which, they pleaded not guilty and claimed to be tried.

- 5.** In course of trial, the prosecution has examined altogether 11 witnesses and also adduced following documentary evidence:-

Exhibit-1 : Injury Report of Dasai Karmali.

Exhibit- 2 : Signature of RO & AC, I/c Barkakana O.P. Camp, Central Workshop Hospital, Barkakana on fardbeyan.

- 6.** On the other hand, no oral or documentary evidence has been adduced by the defence.
- 7.** After conclusion of trial, the learned trial court, after considering the oral as well as documentary evidence available on record, has convicted and sentenced the

appellant, as stated above, which is assailed in this appeal.

- 8.** Learned counsel for the appellant submits that the conviction of the appellant for the offence under Section 307 of the I.P.C. is absolutely unwarranted under law as the factual scenario clearly depicts that the ingredients of Section 307 I.P.C. is absolutely lacking in this case. There was single blow injury caused on head of the injured, which was also found to be simple in nature. Apart from above injury, no other injury was found on the body of the injured Dasai Karmali (P.W.-1). The learned trial court has recorded finding that since the injury was on the vital part, therefore, offence under Section 307 of I.P.C. is attracted in this case. The learned trial court has also failed to keep in mind the required intention and knowledge for constituting the offence under Section 307 of I.P.C. It is further submitted that at best, the offence comes under Section 324 of the I.P.C. On the date of occurrence, the age of the appellant was nearly about 20 years. It was first offence of the appellant, which has not been disputed by the prosecution at the time of hearing on the point of sentence. The learned trial court considering the gravity and severity of offence declined to extend the provisions of

Probation of Offenders Act to the appellant, to which the appellant deserves.

9. On the other hand, learned A.P.P. has defended the impugned judgment on merits on the ground that the injury was caused by lethal weapon by farsa on the vital part of the body like head, although simple, but it was caused with intention to kill the injured. Therefore, there is no illegality or infirmity in the impugned judgment, calling for any interference by way of this appeal.
10. It appears that altogether 11 witnesses were examined in this case during trial. The most important witness is P.W.-1 Dasai Karmali (Injured). According to his evidence, he was assaulted by farsa. The other witnesses of facts namely, P.W.-2 Matku Bedia, P.W.-3 Sakaldeo Bedia, P.W.-4 Sunil Karmali (son of injured), P.W.-5 Dhaneshwar Karmali, P.W.-6 Dulra Bedia, P.W.-7 Jatra Bedia, P.W.-8 Karju Bedia, P.W.-10 Mukesh Bedia are hearsay witnesses, who have arrived at the place of occurrence immediately after just happening and saw the injured Dasai Karmali. It further appears that the injured Dasai Karmali, his son Sunil Karmali and P.W.-11 Vinod Karmali have supported the occurrence and involvement of the present appellant in the alleged offence, which find

corroboration from evidence of P.W.-9 Doctor, who has examined the injured Dasai Karmali and found clean cut wound over left temporal region about 1 ½” from the middle line extending from the hair margin of forehead and intero posterior about 3 ½” x 1/3” x muscle deep.

- 11.** It has been held by the **Hon’ble Apex Court** in the case of ***Hari Singh Vrs. Sukhbir Singh & Others*** as reported in **(1988)4 SCC 551**, at para-7 that :-

“7..... Under Section 307 I.P.C. what the Court has to see is, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of "attempt to murder". Under Section 307 the intention precedes the act attributed to accused. Therefore, the intention is to be gathered from all circumstances, and not merely from the consequences that ensue. The nature of the weapon used, manner in which it is used. motive for the crime, severity of the blow, the part of the body where the injury is inflicted are some of the factors that may be taken into consideration to determine the intention.”

- 12.** In order to attract the offence under Section 307 of the I.P.C. in this case, the required Intention and knowledge to constitute offence under Section 307 of

the I.P.C. is absolutely lacking. There was single blow and there is no material on record that the accused appellant was prevented from causing any repetition of blow, if he intended more harm than was inflicted by him at the spur of moment. Therefore, the conviction of appellant for the offence under Section 307 of the I.P.C. is not sustainable in the eyes of law and beyond the weightage of evidence available on record. Accordingly, the conviction of appellant for the said offence is hereby set aside. However, in the factual scenario and corroborated by evidence of doctor (P.W.-9), the offence under Section 324 of the I.P.C. is made out.

- 13.** In view of the above, this appeal is **dismissed** on merits with modification in conviction from Section 307 to Section 324 of the I.P.C.
- 14.** So far sentence of the appellant is concerned, instead of undergoing substantive sentence of imprisonment awarded to the appellant by learned Trial Court, the appellant is hereby directed to be released on furnishing bond of Rs.5,000/- (Rupees Five Thousand) with one surety of like amount to the satisfaction of learned trial court under Section 4 of the Probation of Offenders Act, 1958 within two months from the date of this order for maintaining

peace and be of good behavior for one year from the date of furnishing the bond.

- 15.** If the bond is not furnished within above stipulated time, the learned Trial Court shall issue notice upon the appellant to secure his attendance for furnishing the bond.
- 16.** In case of violation of terms and conditions of the bond, the appellant shall be called upon to receive the sentence already awarded to him.
- 17.** Pending I.A. if any stands disposed of.
- 18.** Let a copy of this judgment along with trial court record be sent back to the court concerned immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi.

Dated: 6th May, 2026.

Sunil/-NAFR

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